

Tell City Chair Company and International Brotherhood of Pottery and Allied Workers Union, AFL-CIO. Case 9-CA-15341

July 29, 1981

DECISION AND ORDER

On April 24, 1981, Administrative Law Judge Wallace H. Nations issued the attached Decision in this proceeding. Thereafter, the Charging Party filed exceptions and a supporting brief, and Respondent filed a brief¹ in opposition to the Charging Party's exceptions.

The National Labor Relations Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings,² and conclusions³ of the Administrative Law Judge and to adopt his recommended Order.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the complaint be, and it hereby is, dismissed in its entirety.

¹ Respondent in its "Answering Brief to the Charging Party's Exceptions" submits, *inter alia*, that the Charging Party's exceptions and brief should be disregarded as they do not comply with Sec. 102.46(b) and (c) of the Board's Rules and Regulations. We find, however, that the Charging Party's exceptions and brief are in substantial compliance with said rules, and thus reject Respondent's contention.

² The Charging Party has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an administrative law judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. *Standard Dry Wall Products, Inc.*, 91 NLRB 544 (1950), *enfd.* 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing his findings.

³ We find it unnecessary to rely on the Administrative Law Judge's finding that Clyde Finlay, Respondent's corporate director and the man who made the decision to discharge the alleged discriminatee, Jimmy Sanders, had no knowledge of the two arguments between Sanders and Eugene Whitworth, Respondent's foreman, about the Union.

DECISION

STATEMENT OF THE CASE

WALLACE H. NATIONS, Administrative Law Judge: The International Brotherhood of Pottery and Allied Workers Union, AFL-CIO, herein called the Union, filed a charge against Tell City Chair Company, herein the Respondent, on May 19, 1980. The Regional Director for Region 9 issued a complaint on June 25, 1980. The complaint alleges that on or about May 9, 1980, Respondent discharged Jimmy R. Sanders because of his union activity, thereby discouraging membership in a labor organization, and Respondent thereby has been engaging in unfair labor practices within the meaning of Section 8(a)(1) and (3) of the National Labor Relations

Act, as amended, herein called the Act. In its answer, Respondent denied all allegations that it violated the Act. A hearing was held before me at Leitchfield, Kentucky, on February 19 and 20, 1981.

Upon the entire record in this case and from my observation of the witnesses and their demeanor, I make the following:

FINDINGS AND CONCLUSIONS

I. THE BUSINESS OF RESPONDENT

Respondent manufactures furniture at plants in Tell City, Indiana, and Leitchfield, Kentucky. During the year preceding issuance of the complaint Respondent had direct inflow in excess of \$50,000. I find that Respondent is an employer within the meaning of the Act and that it will effectuate the policies of the Act to assert jurisdiction in this case.

II. THE LABOR ORGANIZATION INVOLVED

International Brotherhood of Pottery and Allied Workers Union, AFL-CIO, referred to as the Union, is a labor organization within the meaning of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICE

A. The Facts

1. Background

The Company operates one plant in Leitchfield, Kentucky, and four plants in Tell City, Indiana. All of the approximately 700 production and maintenance employees of the Company's Tell City plants are represented by the Union which has a collective-bargaining agreement with Respondent. In a National Labor Relations Board election conducted on February 1, 1980, the approximately 65 production and maintenance employees at the Leitchfield plant voted against representation by the Union, with the Union losing by a relatively narrow margin.

Clyde E. Finlay has been corporate director of industrial relations supervising all five plants since March 1977. He has the exclusive authority to discharge employees at all plants. J. R. McAllister has been plant manager of the Leitchfield plant since 1977. Eugene Whitworth is the rough mill foreman at Leitchfield, having succeeded Randall Farris. Don Smith is personnel manager over the Leitchfield plant.

The Leitchfield plant produces "dimension stock" from raw lumber, which is shipped to Respondent's Tell City plants for use in fabricating furniture. Production begins in the rough mill where cutoff saw operators cut rough lumber planks measuring approximately 10 inches by 1 inch by 12 feet and weighing about 30 pounds into shorter lengths. An average cutoff saw operator saws approximately 2-1/2 boards per minute, for which he is paid the highest hourly wage rate in the plant.

The primary responsibility of the cutoff saw operator is to carefully execute his cuts to maximize the resulting yield—that is, the amount of stock produced which is usable in subsequent operations. Achieving high yield re-

quires the cutoff saw operator to inspect both sides of the rough planks for defects prior to any cutting. Failure to do so produces stock which must be scrapped because of defects which could have been cut out had the operator seen them. Because inspection prior to cutting is essential to the production of usable stock, the Company has maintained a mandatory rule since 1975 requiring cutoff saw operators to turn each plank prior to the initial cut and once again half way through the cutting of each rough plank. This rule was fully explained on several occasions to saw operators, including Sanders, by Randall Farris, Eugene Whitworth's predecessor as rough mill foreman.

2. The Company's efforts to increase yield

Despite the existence of this rule the Company has had considerable difficulty in achieving acceptable yield levels at the Leitchfield plant. Although the average yield for the industry (that is, the percentage of the rough lumber which is usable after cutting) is approximately 50 percent, yield at the Leitchfield plant averaged only 39 percent. This disparity in percentage yield was particularly important to the Company inasmuch as a 1-percent increase in yield would boost average annual revenues by \$25,000 to \$50,000. The fact that yield was approximately 11 percent below the industry average cost the Company between \$275,000 and \$550,000 per year due to poor yield.

When he became plant manager at Leitchfield in 1977, McAllister instituted several steps to improve yield. Among these steps were several equipment alterations aimed at simplifying the operation of the cutoff saws. In addition, management held several meetings with cutoff saw operators at which the need for higher yield and the means of obtaining such yield were discussed at length.

The first of these formal meetings was conducted by McAllister in March 1978. During that meeting, attended by all cutoff saw operators, including Sanders, the proper procedure for operating the saws was covered at great length. Especially emphasized was the need to turn boards prior to cutting, and once again before subsequent halfway cuts, to ensure that cuts were made from the worst side of the board thus cutting out any defects. At the conclusion of the meeting, the operators were permitted to ask questions, although none chose to do so.

During the next year, yield at the Leitchfield facility remained unsatisfactory. In an effort to boost yield, another meeting was held with all cutoff saw operators, including Sanders on February 12, 1979. Farris and McAllister jointly conducted the meeting at which the need to turn and inspect both sides of a board at least twice was reemphasized.

Soon after succeeding Farris as rough mill foreman, Eugene Whitworth observed one of the cutoff saw operators ruin a saw blade when he hit a metal plate on the underside of the board because he failed to turn and inspect it prior to cutting. Whitworth held a meeting on August 31, 1979, and all cutoff saw operators, including Sanders, were again reminded they were to turn and inspect boards prior to cutting and halfway through the cut to obtain the highest yield and to avoid serious damage to the saws.

Despite these efforts to improve yield, the Company continued to experience low yield. As a result, Ronald Harper, general foreman at the Tell City plants, temporarily moved to the Leitchfield plant between December 1979 and February 1980. His inspection revealed that none of the cutoff saw operators was following instructions in their operation of the saws. Especially noteworthy was the fact they were not turning and inspecting boards prior to cutting and they were not turning boards at least once during the cut as previously instructed. Harper reported the results of his inspection to McAllister and to Finlay. Following Finlay's instructions, Harper proceeded to draft guidelines for the operation of the cutoff saws. Subsequently, a meeting was held with all cutoff saw operators, including Sanders, on February 15, 1980. During this meeting, each operator was given a copy of the guidelines after which the guidelines, including the requirement that boards be turned twice and inspected prior to cutting, were read and thoroughly reviewed. Guidelines 2 and 4 state: "Each board must be turned before starting to cut to determine worst side of the board. Each board must always be cut from worst side Turn each board during a cutting operation and look at the board so that each cut will always be taken from worst side of each board to obtain maximum yield from that board." Harper also outlined at length the steps the Company had previously taken to improve yield at the Leitchfield plant, and warned employees that failure to follow the guidelines would not be tolerated.

When yield continued to be unsatisfactory, McAllister conducted another meeting with all cutoff saw operators, including Sanders, on February 28, 1980. The guidelines were again discussed, with special emphasis placed on the requirement that boards be turned and inspected once before cutting and once during cutting.

During the next month, yield did not increase. As a result, another meeting was held with all cutoff saw operators, including Sanders, on April 8, 1980. In addition to again discussing the guidelines, the Company noted the economic problems resulting from the low yield. McAllister informed the operators that failure to turn and inspect boards prior to cutting and during cutting would be considered insubordination under established plant rules and would result in discharge.

Even after this explicit warning, yield failed to improve. A final meeting was held on April 17, 1980. McAllister testified without contradiction that, prior to this meeting, he observed Sanders fail to turn boards twice and had received a report to the same effect from Finlay. All cutoff saw operators, including Sanders, attended this meeting. McAllister again reviewed the guidelines, reiterating his warning that "[i]f anybody was caught not following the guidelines they would be considered insubordinate and they would be discharged." It was at this meeting that Sanders asked a question about how he should cut when he got to the end of the board. McAllister told him to always cut for the longest lengths unless his foreman gave him contrary directions.¹

¹ It is Sanders' position that he asked McAllister, after the meeting, "What did he want, footage or yield?" McAllister told him he needed

Continued

3. Sanders' employment with the Company

Sanders was first employed in September 1975. After performing a variety of jobs, he became a cutoff saw operator in 1977. During his employment Sanders received several disciplinary warnings. On January 2, 1980, he was counseled about his spending excessive time in the restrooms. Sanders admits excessive time in the restroom, but claims this was due to hemorrhoids which he thinks were caused by lifting boards. Whitworth instructed Sanders to see a doctor which he admits he did not do.

Shortly after talking to Sanders about this problem, Whitworth caught Sanders and Bobby McCombs throwing golf tees used as saw markers at each other. Both employees were warned that further conduct of that sort would result in formal discipline.

A few days later, Whitworth again warned Sanders for spending too much time in the restroom. Approximately a month later, Sanders again spent excessive time in the restroom, and Whitworth issued a formal warning to him. During this same period of time, Whitworth warned several other employees, including Paul Newton, Sonny McGrew, and Coy Smith, about wasting time in the restroom.

4. Sanders' alleged insubordination on May 5, 1980

On May 5, 1980, McAllister observed Sanders cutting boards without turning or inspecting them. Although he initially did not count the number of boards Sanders failed to turn, he noted that Sanders was not turning the majority of them, and when he began to count he determined that Sanders turned only one of seven boards. After observing Sanders, McAllister contacted Finlay in Tell City and requested instructions. Finlay instructed McAllister to double check with Sanders' supervisor to be sure he was not following some special instructions. McAllister did so and instructed Whitworth to observe Sanders. After observing all of the operators, Whitworth reported to McAllister that Sanders was the only operator who was not turning boards as instructed and that he had turned only 3 of 15 boards he cut.²

more yield as the yield was low. To an extent, another witness, fellow cutoff saw operator Denny Gore, supports Sanders' allegation as to the wording of his question or questions to McAllister. The General Counsel contends it is of importance that, regardless of whether there were one or two questions presented to McAllister at the meeting, Sanders was the only employee challenging McAllister about what he was attempting to explain to them. The General Counsel further contends that whether McAllister accepted the inquiry by Sanders as facetious or as a *pseudo protest* it did not enhance Sanders' position as an employee with McAllister.

² The above version of the observations by McAllister and Whitworth of Sanders' performance is basically that of Respondent. Sanders' version varies from this somewhat. Sanders testified that Whitworth came to his saw area about 6:35 a.m., and gave him different sizes of board to cut and stayed about 4 minutes. Sanders observed McAllister also entering the area for a minute or two about 5 minutes before Sanders was called to the office. Witness Gore testified that he saw McAllister on the day of Sanders' suspension but that he did not observe Foreman Whitworth watching Sanders cutting or turning any boards that day. Sanders testified that the foreman did not see him cut any boards. Although the actual number of boards McAllister and Whitworth each observed Sanders handling may or may not be accurate, I believe from the preponderance of the evidence that both actually did observe Sanders on the day of his suspension. The record contains a very detailed description of the cut saw area in the plant and it is quite possible that a supervisor could observe

McAllister and Whitworth then returned and together they observed Sanders during which time he continued to be the only operator who failed to turn and inspect boards prior to or during cutting. McAllister again telephoned Finlay and was instructed to immediately suspend Sanders pending investigation of his insubordination.

5. Sanders' suspension and termination

McAllister summoned Sanders to his office, told him that he had been seen failing to turn and inspect boards before and during cutting, and asked him why he was not turning the boards as he had been instructed. Sanders initially said he had been turning the boards, but later he twice admitted, "I guess I just forgot." Sanders gave no other explanation for his failure to turn the boards. McAllister reminded Sanders he had been warned with all other saw operators of the consequences of failure to turn and inspect the boards and that, because of his failure to heed those warnings, he was being suspended pending further investigation.³

Two days later, Finlay arrived from Tell City to investigate the matter. On May 7, 1980, he and Smith met with Sanders, and asked him to respond to the charge of insubordination. During the meeting, Sanders clearly indicated he understood the requirement that boards be turned and inspected at least twice, once prior to any cut and again before the successive cut. He also clearly admitted he did not follow this procedure but instead inspected boards only prior to cutting the first time, despite having received no instructions to alter the procedure.⁴

Finlay explained he would speak with McAllister and Whitworth and requested that Sanders meet with him again that afternoon. Sanders declined to return that day but agreed to meet the next day. Finlay consulted with McAllister and Whitworth and concluded that their eyewitness observations and Sanders' admissions clearly proved insubordination, and that Sanders should be discharged as he had been warned of this consequence. Finlay met with Sanders again on May 8, informed him of the decision, and gave him his termination notice.

6. Evidence of alleged union animus

Based on the following evidence, the General Counsel contends that Respondent was motivated to discharge Sanders because of union animus and that its stated reason for the discharge was merely a pretext:

a. Sanders voted in a Board election at the Leitchfield plant conducted in early 1979 and participated in the 1980 union campaign which commenced in November 1979. Sanders testified that he solicited about 20 union

the cut saw operation for a short period of time without attracting the attention of any of the cut saw operators.

³ Sanders, at the hearing, denied the admission that he had failed to turn the boards after the April 17 meeting to the date of his suspension. However, Sanders also testified that he was angry and upset at the suspension and termination meetings and his memory of exactly what was said by himself and others on this occasion is understandably vague. Respondent's version of the meetings is credibly supported by several witnesses' testimony and contemporaneous notes.

⁴ See fn. 3.

authorization cards in a unit of approximately 60 employees. He was also one of the union observers at the election on February 1, 1980. The other union observer was James Howard, a maintenance repairman, who was also the union observer at the prior election on January 12, 1979. About 45 minutes before the February 1, 1980, election, Whitworth asked Sanders and other employees for their support in the election. According to Sanders, Whitworth told him that he would appreciate his support in the election. Whitworth testified that he did not remember stating that he would appreciate Sanders' support. Whitworth admitted that he did not know Sanders was selected to be the second observer for the Union.

b. Sanders claims that his relationship with Whitworth before the election was "pretty good" but, after the election, Whitworth began to abuse him. The substance of this abuse apparently consists of two very short arguments Sanders had with Whitworth about the Union after the election. About 2 weeks after the election, Sanders testified that Whitworth started to argue with him about which was best for Sanders, the Union or the Company. It is Sanders' testimony that he told Whitworth that it was "no use to argue as the Company had won and there was nothing more to argue about." Sanders further testified that, approximately 3 weeks later, Whitworth argued with him and pointed his finger at his nose while discussing the Union. Whitworth denied both incidents involving argument about the Union. Witness Donny Gore, another cutoff saw operator, testified as to observing at a distance the second alleged argument. He did not overhear the conversation and did not know what the substance of the argument was, although he testified that he was told at a later time by Sanders that it was about the Union.

c. Before the election, Whitworth counseled Sanders about excessive time spent in the restroom and advised him that he should see a doctor about the physical problem which may have caused the time in the restroom. After the election, Whitworth warned Sanders verbally and on March 19, 1980, prepared a written warning against Sanders for visiting the restroom three times on March 18, 1980. As noted before in this decision, Whitworth also warned three other employees about excessive time spent in the restrooms. Based on the evidence of record, I can only conclude that any undeserved treatment by Whitworth of Sanders is reflected by the two postelection conversations or arguments between the two men. The warning of Sanders, as well as the other involved employees who were spending excessive time in the Company's restroom appears to be a valid exercise of the supervisor's responsibility. Having observed both of the young men, Whitworth and Sanders, who appear to know each other quite well, I believe that the two arguments or conversations could, at least in part, involve the union election. However, as will be discussed in greater detail below, I believe the two arguments were isolated incidents that began and ended with the two involved persons. Based on all the evidence of record, I do not believe that they were motivated by management action nor do I believe that they were part of any antiunion campaign by management. There is no evidence in this record reflecting an antiunion campaign

at any stage conducted by management, either before or after the 1980 election.

d. Sanders alone was suspended and fired for violations of the Company's rules regarding flipping of boards while the other cut saw operators, allegedly also guilty of violations of this rule, were not disciplined by the Company. In support of this contention, the General Counsel notes that Ronnie Harper, general foreman at the Tell City, Indiana, plant testified that he was present with Whitworth in the cutoff saw department between December 1979 and February 1980. On one occasion, he told Whitworth that none of the operators was turning the boards. He subsequently had McAllister and Smith watch these operators not turning the boards. Harper suggested as a remedy that Respondent prepare guidelines for future policy and no warnings were given to the operators. Whitworth also knew some of the operators were not turning the boards on or about February 28, 1980, and also on April 8, 1980, according to his memorandums. Whitworth never brought any recommendation to McAllister about warning, suspending, or disciplining any cutoff saw operator. However, he must have given the information to McAllister as instruction and warning meetings were held shortly after the date of each memorandum with the cutoff crew. McAllister testified he never caught any other cutoff men not turning the boards after the April 1980 warnings. McAllister said that 2 months before April 17, 1980, he noted Sanders missed turning boards. McAllister admitted that on numerous occasions Sanders turned the boards.

e. Cutoff saw operator Bobby McCombs had worked for 8 months with several bad reports and was not severely reprimanded for a bad yield. He was not replaced by another operator for several months even during the period when Respondent claimed it was imperative to attain good yield.⁵ Subsequent to the suspension of Sanders, a plant janitor allegedly told McAllister that he had observed Darrel Whitworth, the supervisor's brother, neglecting to turn over boards. Though the record is not clear on whether any action was taken by management to verify this allegation, Whitworth has subsequently been transferred to another department.

f. James Howard, a maintenance repairman, on January 15, 1980, 16 days before the election, was given an order by a leadman, Leslie Blanton, to push a welder to the boilerroom to effect a repair. Although the record is not clear on whether Howard had permission or not to do so, Howard went to the restroom prior to pushing the welder. Upon returning to the area where the welder should be, Howard found that it was missing. He then discontinued his assigned task and went about talking to other employees. Shortly thereafter, Howard was sum-

⁵ What the General Counsel does not note in his arguments and what virtually every witness was reluctant to discuss was McCombs' relatively low mental capabilities. The evidence reflects that McCombs could neither read nor write and was incapable of following all but the simplest instructions with regard to any task at the plant. I believe from the evidence that McCombs was given special treatment compared to the other employees because of a good personality, admitted low capacities, and a willingness to do menial and even dangerous tasks that other employees would not undertake. McCombs was killed in an accident in the plant sometime after the incidents involved in this proceeding occurred.

moned to the office of McAllister and reprimanded. The General Counsel contends that the purpose of the reprimand was to create an attitude of fear or intimidation in the hearts of the employees prior to the election. After the election, Howard was promoted and given a higher rate of pay.

I find that the only objective evidence of record of any union animus on the part of Respondent consists of the two arguments between Sanders and Whitworth, which Whitworth continuously denied involved the Union as a topic. I have heretofore given credit to Sanders' version of the two arguments. However, I find that in and of themselves they do not constitute sufficient evidence to support a finding of any union animus on the part of Respondent. Absent the isolated arguments between Sanders and his immediate supervisor, the record is practically without any evidence supportive of the proposition that Respondent's termination of Sanders was motivated by an unlawful desire to discourage union activity. No other violations of any kind are alleged in the complaint and the Company has a history of harmonious relationship with the involved Union at four of its five plants. There is no showing in this record that the Company has ever previously been engaged in any unfair labor practices.

Further, there is no showing in this record that the man who actually made the decision to suspend and terminate Sanders, Clyde Finlay, had any knowledge of Sanders' relationship with Whitworth. Finlay has not been shown to have had knowledge of the alleged union discussions after the election and I do not find that these were factors in his decision to discharge Sanders. Additionally, Plant Manager McAllister, who is contended by the General Counsel to have held personal animus toward Sanders, has not been shown to have harbored any such animus for any reason relating to Sanders' union activity. The only incident to which the General Counsel can point which would establish an animus is the contradiction in testimony about certain questions asked by Sanders of McAllister at the April 17, 1980, meeting of the cutoff saw operators and company officials. The General Counsel has drawn the inference that these questions upset McAllister and presumably led him to find reasons to discharge Sanders. I cannot find from the evidence that the questions, whatever they may have been, upset McAllister in any respect and certainly not sufficiently to seek reasons for Sanders' discharge.

The General Counsel's contention noted above that Sanders was singled out for harsh treatment because of his union adherence and that his discharge constitutes unlawful discrimination is not well taken. I find that the record as a whole supports the finding that Sanders would have been discharged by Respondent regardless of his union activity for his violation of the Company's rules. The Company has proven that yield at its Leitchfield, Kentucky, plant was below average and that the reason for the low yield was the failure of the employees to follow company instructions about flipping or turning boards in the cutoff saw operation. Respondent explained to the cutoff operators, including Sanders, on repeated occasions the reasons for the need to increase yield. In increasingly severe tones company officials warned the

operators the penalties which would result from the failure to follow company instructions with regard to turning boards. These warnings culminated in the April 8 and 17 warnings that employees would be summarily discharged for insubordination if they were found not turning boards in accordance with company procedure. There is no proof in this record that, between the April 17 warning and May 5, any cutoff saw operator other than Sanders was observed failing to turn boards in accordance with the Company's policy. Thus, it is concluded that Respondent had a valid and legitimate business reason for suspending and subsequently discharging Sanders as a result of the May 5 observance of Sanders not following the correct procedure. There is no proof in this record that had any other cutoff operator been observed by management after the April 17, 1980, warning failing to turn boards properly that that person would not have been summarily terminated.

B. Concluding Findings

The General Counsel concedes that it is well established that a discharge may be for good cause or bad cause or no cause at all except that a discharge is unlawful when the real motivating purpose is contrary to the prohibitions of Section 8(a)(1) or (3). The controlling Board decision on burden of proof in this proceeding is *Wright Line, a Division of Wright Line, Inc.*, 251 NLRB 1083 (1980). In *Wright Line*, the Board established the following causation test in all cases alleging violations of Section 8(a)(3) or violations of Section 8(a)(1) turning on employer motivation. First, it requires that the General Counsel make a *prima facie* showing sufficient to support the inference that protected conduct was a "motivating factor" in the employer's decision. Once this is established, the burden will shift to the employer to demonstrate that the same action would have taken place even in the absence of the protected conduct. Viewing all the evidence of record, and for the reasons set forth above, I find that the General Counsel has not established that the Company's termination of Sanders was motivated by an unlawful desire to discourage union activity. Accordingly, I find that Respondent's reasons for discharging Sanders were not pretextual, but served a legitimate business purpose and further that Sanders would have been discharged for his actions regardless of his union activity.

Accordingly, I conclude that Respondent did not violate Section 8(a)(3) or (1) of the Act by discharging Sanders. Inasmuch as the complaint alleges no other violations of the Act by Respondent, my order will provide for its dismissal. Upon the foregoing findings of fact and the entire record in this case, I make the following:

CONCLUSIONS OF LAW

1. Respondent is an employer within the meaning of Section 2(2) of the Act and is engaged in commerce within the meaning of Section 2(6) and (7) of the Act.
2. The Union is a labor organization within the meaning of Section 2(5) of the Act.
3. Respondent did not engage in unfair labor practices within the meaning of Section 8(a)(3) or (1) of the Act by discharging Jimmy Sanders.

Upon the foregoing findings of fact, conclusions of law, and the entire record, and pursuant to Section 10(c) of the Act, as amended, I hereby issue the following recommended:

ORDER⁶

It is hereby ordered that the complaint be, and the same hereby is, dismissed.

⁶ In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.